

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PETER KLIDERIS, *on behalf of himself*
and all other persons similarly situated,

Plaintiff,

- against -

TRATTORIA EL GRECO and JOHN DOES 1-10,

Defendants.

**REPORT AND
RECOMMENDATION**

10 CV 4288 (JBW)

X

On September 20, 2010, plaintiff Peter Klideris filed this collective action against Trattoria El Greco, pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b), seeking unpaid wages for overtime work and liquidated damages. Currently pending before this Court is plaintiff's motion for entry of a default judgment based on defendant's failure to comply with various Court Orders, including a failure to obtain counsel.

On June 28, 2011, Basiliros Vassos, Esq., filed a Motion to Withdraw as counsel for the defendant Trattoria El Greco, based on counsel's representation that he had made numerous unsuccessful attempts to contact his client. After a Hearing on the Motion to Withdraw was held on July 15, 2011 at 12:30 p.m., the Court granted counsel's Motion to Withdraw by Order dated July 15, 2011, and Ordered the defendant corporation to find new counsel within 30 days. Defendant was warned that because a corporation, such as Trattoria El Greco, may not appear in federal court without counsel, the Court would recommend that a default enter if new counsel failed to file a Notice of Appearance on or before August 15, 2011.

Having heard nothing from any of the defendants by the August 15, 2011 deadline, the Court scheduled a conference to give the defendants yet another opportunity to appear and demonstrate their interest in pursuing this litigation. No one representing the defendants

appeared for the September 9, 2011 conference.

By letter dated September 15, 2011, plaintiff seeks a default judgment against the defendants, noting that plaintiff had obtained information indicating that the corporate defendant is no longer doing business. By Order dated September 23, 2011, the Court respectfully recommended that default be entered against defendant Trattoria El Greco pursuant to Rule 55(b) of the Federal Rules of Civil Procedure if defendant did not contact the Court within fourteen (14) days of this Order, indicating an intent to defend in this action. Fed. R. Civ. P. 55(b). Defendant Trattoria El Greco has failed to contact the Court or otherwise indicate an intent to defend in this action. Accordingly, the Court respectfully recommends that default be entered at this time and the case proceed to an inquest on damages.

The Clerk is directed to send copies of this Report and Recommendation to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

SO ORDERED.

Dated: Brooklyn, New York
November 16, 2011

/s/ CHERYL POLLAK

Cheryl L. Pollak
U.S. Magistrate Judge